



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 9, 1996

Mr. Ray Rike  
Assistant Criminal District Attorney  
Tarrant County  
Justice Center  
401 W. Belknap  
Fort Worth, Texas 76196-0201

OR96-0160

Dear Mr. Rike:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 37615.

Tarrant County (the "county") has received a request for information relating to the award of the inmate phone service. You state that the county is providing the requestor with various documents responsive to the request. You object, however, to the release of nine documents. You contend that these documents are excepted from required public disclosure under section 552.111 of the Government Code.

Section 552.111 excepts "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." You claim that the documents reflect the thoughts and opinions of the contracts administrator for the Purchasing Department of the county. You have submitted the documents as exhibits B, C, D, and E and cite Open Records Decision Nos. 128 (1976), 310 (1982), 538 (1990), and 556 (1990) as precedence for withholding "the opinions, advice and recommendation of an employee."

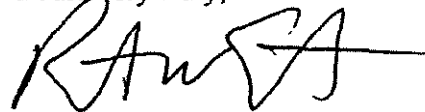
This office reexamined the scope of section 552.111 in Open Records Decision No. 615 (1993) due to the Third Court of Appeals decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ). This office determined that in order to be excepted under section 552.111 of the Government Code information must be related to the policymaking functions of the governmental body. Open Records Decision No. 615 (1993) at 5. The policymaking functions of an agency, however, do not encompass routine internal administrative and personnel matters. *Id.* Furthermore, section 552.111 does not except purely factual information from

disclosure. *Id.* See generally *Boeing Airplane Co. v. Coggeshall*, 280 F.2d 654, 660 (D.C. Cir. 1960) (although recommendations as to policies which should be pursued by governmental body or recommendations as to decisions which should be reached are excepted by the deliberative process privilege, investigatory or other factual information is not protected).

We examined the documents the county submitted for our consideration and find that the documents do not contain advice or recommendation, and that the documents do not relate to policy issues of the county. The documents essentially contain the factual recitation of statements that were made at certain meetings, and the factual recitation of information about the bidders for the proposed phone system. Even if the employee used such factual information to formulate advice to the county commissioners court, the documents do not contain notations of advice or recommendation, and such advice does not concern the policy of the county. Rather, the documents concern one specific bidding situation. Accordingly, you may not withhold these documents under section 552.111 of the Government Code. The information must be released to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Robert W. Schmidt  
Assistant Attorney General  
Open Records Division

RWS/LBC/ch

Ref: ID# 37615

Enclosures: Submitted documents

cc: Mr. Tony Parella  
MFS Intelenet, Inc.  
1950 Stemmons Freeway, Suite 4021  
Dallas, Texas 75207  
(w/o enclosures)